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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,276	04/12/2004	James Alfred White		5667

7590 12/14/2005
JAMES ALFRED WHITE
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PINEVILLE, LA 71360-2912

EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,276

Applicant(s)

WHITE, JAMES ALFRED

Examiner

Isaac N. Hamilton

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “lock nut” that secures the pilot pin, “the teeth” of a driver on the spindle, and “a window opening” in the drive support must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. The claim is objected to because of the following informalities: line 9, “base and angled” should be changed to --the base, and the blade angled--; line 37, “potatoes” should be changed to

Art Unit: 3724

--potato's--; "a fixed blade" should be changed to --the fixed blade--; line 44, "applied" should be changed to --applies--; line 51, "a driver with" should be changed to --the driver has--; line 52, "length is" should be changed to --length and is--; line 58, "a base" should be changed to --the base--; line 60, "spring type" should be changed to --spring-type--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The claim is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim recites that the pilot pin is adjustable, however, it is not clear how the pilot pin is adjusted. Is the penetration depth into the potato adjusted? In addition, the specification does not describe the pilot pin being thread connected to the blade support, the drive spindle being located 2 and ¼ inches above the base, the drive spindle and the pilot pin being at the same location above the base, the "pilot" in the potatoes farthest end, "teeth" of a driver on the spindle, a "window opening" in the drive support, and cutting of a potato of a maximum size 50 count. These limitations are considered to be new matter and should be canceled from the claim.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3724

6. The claim is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim recites the limitation "the immediate cutting edge" in lines 20-21. There is insufficient antecedent basis for this limitation in the claim.

The claim recites the limitation "the drive spindle" in lines 11. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The claim is rejected under 35 U.S.C. 103(a) as being unpatentable over Robb (240,186) in view of Ross (2,464,993), Mason (2,489,581), Mason (3,211,202), hereafter Mason '202, and Waller (2,156,645). Robb discloses fixed blades G and F; drive spindle B; pilot pin l, Dl; hole w; drive support a and A; means for manual cranking h, B; crank handle h; drive nut guide b and A; drive nut b; window opening juxtaposed a, b and A; driver with four flat teeth f and g. The apparatus of Robb is capable of cutting a potato of size 50 count and less, and wherein the average size is 6 1/2" in length and 3 1/2" diameter. Robb does not disclose a fixed vertical blade angled horizontally at an angle perpendicular to the centerline of the drive spindle, however, Mason teaches fixed vertical blade 13 angled horizontally at an angle perpendicular to the centerline of the drive spindle. It would have been obvious to provide the fixed vertical blade

Art Unit: 3724

angled horizontally at an angle perpendicular to the centerline of the drive spindle in Robb as taught by Mason in order to prevent sliced pieces from falling to the floor. Robb does not disclose an adjustable pilot pin secured by a lock nut, however, Ross teaches an adjustable pilot pin secured by a lock nut 20. It would have been obvious to provide a pilot pin secured by a lock nut in Robb as taught by Ross in order to accommodate workpieces of various shapes. Robb does not disclose four rubber support legs, however, Mason '202 teaches 4 rubber support legs in figure 2. It would have been obvious to provide four rubber support legs in Robb as taught by Mason '202 in order to prevent damage to the upper surface upon which the apparatus lies. Robb does not disclose two metal spring type counter stop arms, however, Waller teaches two metal spring type counter stop arms 2 in figure 1. It would have been obvious to provide two metal spring type counter stop arms in Robb as taught by Waller in order to prevent damage to the under surface upon which the apparatus lies.

The combination discloses the claimed invention except for the angle of the blade being 20 degrees, the drive spindle and pilot pin being located $2\frac{1}{4}$ " above the base, teeth being $\frac{7}{16}$ " length, the potato being maximum size 50 count with an average size of $6\frac{1}{2}$ " length and $3\frac{1}{2}$ " diameter, and the spindle having $\frac{3}{8}$ "-16 threads. It would have been obvious to one of ordinary skill in the art to provide the elements mentioned above for the purpose of maximizing cutting efficiency for different types of potatoes, such as, sweet potatoes, Idaho potatoes, and red potatoes. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value involves only routine skill in the art. Such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Response to Arguments

Applicant's arguments with respect to the claim have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

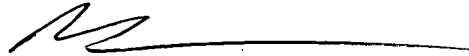
Art Unit: 3724

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



IH

December 12, 2005



KENNETH E. PETERSON
PRIMARY EXAMINER